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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

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BERNARD LEVI,

Plaintiff,

*versus*

JOHN FOX,

Defendant.

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CIVIL ACTION NO. 1:09-CV-480

**MEMORANDUM ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND  
ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Bernard Levi, a prisoner confined at the United States Penitentiary in Beaumont, Texas, proceeding *pro se*, filed this civil action against Warden John Fox. Plaintiff requested leave to proceed *in forma pauperis*.

The court ordered that this matter be referred to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends denying plaintiff's motion to proceed *in forma pauperis*, and dismissing the case without prejudice pursuant to 28 U.S.C. § 1915(g).

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Plaintiff filed objections to the magistrate judge's Report and Recommendation.

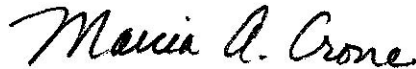
The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). Plaintiff has not demonstrated that he is in

imminent danger of serious physical injury. Therefore, after careful consideration, the court concludes the objections are without merit.

**ORDER**

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. Plaintiff's motion for leave to proceed *in forma pauperis* is **DENIED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendations.

SIGNED at Beaumont, Texas, this 3rd day of August, 2009.



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MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE